

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE

PETITION BY WAY OF RESOLUTION TO THE ALLEN COUNTY
DRAINAGE BOARD TO MAKE THE SPY RUN CREEK A LEGAL
DRAIN

THIS RESOLUTION of the Common Council of the City of
Fort Wayne WITNESSETH THAT:

WHEREAS, there exists in Allen County a natural drain
known as the Spy Run Creek which drains many acres both within
and without the City of Fort Wayne;

WHEREAS, said Spy Run Creek in its entirety has never
been designated as a legal drain so as to confer jurisdiction
on the Allen County Drainage Board for purpose of cleaning,
repairing and improving said drain; and

WHEREAS, said drain because of lack of maintenance and
repair has deteriorated to such an extent that it is no longer
able to handle the volume of water from its drainage area and
has resulted in substantial losses to property in the drainage
area because of flooding; and

WHEREAS, Clause Nine of Section 53 of the Acts of the
Indiana General Assembly 1905 (Burns 48-1407) provides among
other powers of the Common Council of Cities as follows:

"To authorize the cleansing and purification of
water and water-courses, by the board of public
works or other designated authority; to prevent
encroachment or injury to the banks of streams,
or the casting into the same of offal, dead ani-
mals, logs, rubbish, dirt or impure liquids. For
the purpose of this clause, jurisdiction is hereby
conferred upon cities for ten (10) miles from the
corporate limits thereof."

AND WHEREAS, Article 2 of the Indiana Drainage Code,
Acts 1965 Chapter 305 (Burns 27-2101) provides that the Common

Council of a city may petition for the establishment of a legal drain, so long as lands of such city are drained,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Fort Wayne that:

1. By way of this resolution the City of Fort Wayne petitions to the Allen County Drainage Board that the Spy Run Creek and its tributaries be made and classified as a legal drain pursuant to the provisions of the Drainage Act of 1965 of the State of Indiana;

2. That Exhibit A attached hereto contains a list of the owners of more than 75% of the lands in the drainage area and the names of more than 75% of the owners of such drained real estate.

3. That the Spy Run Creek drainage area commences about Section 10, Township 31 North Range 12 East and runs southeast through and drains Section 15, Section 22, Section 26, Section 27, and Section 35 in said Section, Township and Range; Thence said creek continues through the City of Fort Wayne until it empties into the St. Marys River in Section 2, Township 30 North, Range 12 East; that in addition to the areas of the City in Wayne Township, the City extends into Sections 26, 27, and 35 in Washington Township.

4. That this Council is of the opinion the costs, damages and expenses of the proposed improvements will be less than the benefits which will result to the owners of land benefitted and to the citizens of Fort Wayne.

5. That in the opinion of this Council, the proposed improvement will:

- a) improve public health by reducing pollution by providing for the elimination of stagnant pools and by increase of the

flow within said creek;

b) be of benefit in preventing the flooding of streets within the city, roads within the county, and public parks as well as privately owned property;

c) be of public utility.

6. That all of the land to be drained lies within the ten-mile jurisdiction of the Common Council of the City of Fort Wayne.

7. That the City Attorney of the City of Fort Wayne is attorney for petitioners.

Thomas J. Adams

APPROVED AS TO FORM
AND LEGALITY.

John R. Moore
CITY ATTORNEY

Read the first time in full and on motion by _____ seconded by _____ and duly adopted, read the second time by title and referred to the (Committee on) _____ (and to the City Planning Commission for recommendation) (and Public Hearing to be held after due legal notice, at the Council Chambers, City Hall, Fort Wayne, Indiana, on the _____ day of _____ 196____, at _____ o'clock _____ P.M., E.S.T.

Date: 2-11-69 _____ City Clerk

Read the third time in full and on motion by Adams seconded by Geake and duly adopted, placed on its passage. Passed (~~Lost~~) by the following vote:

| AYES | <u>7</u> | NAYS | <u>0</u> | ABSTAINED | ____ | ABSENT | <u>2</u> | to-wit: |
|-------------|----------|-------|----------|-----------|-------|--------|----------|---------|
| Adams | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | _____ | |
| Dunifon | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | _____ | |
| Fay | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | _____ | |
| Geake | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | _____ | |
| Nuckols | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | _____ | |
| Robinson | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | <u>✓</u> | |
| Rousseau | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | <u>✓</u> | |
| Steigerwald | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | <u>✓</u> | |
| Tipton | <u>✓</u> | _____ | _____ | _____ | _____ | _____ | _____ | |

Date 4-28-70 Thad J. Bonachum City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~Zoning Map~~)(~~General~~)(~~Annexation~~)(~~Special~~)(~~Appropriation~~) Ordinance (Resolution) No. 8-73-70 on the 28th day of April, 19670.

ATTEST: (SEAL)

Thad J. Bonachum
City Clerk

Herbert B. Tipton
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of April, 19670 at the hour of 8:30 o'clock A.M., E.S.T.

Thad J. Bonachum
City Clerk

Approved and signed by me this 29th day of April, 1970, at the hour of 9:49 o'clock A.M., E.S.T.

Harold B. Zeig
Mayor